

**CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION
MARKS-ROOS LOCAL BOND POOL PARTICIPANTS
REPORTING GUIDELINES**

The California Debt and Investment Advisory Commission is providing the following guidelines to implement the requirements of Government Code Section 6599.1 of the Government Code, which is part of the Marks-Roos Local Bond Pooling Act of 1985, as amended (Sections 6584 et seq).

All issuers selling bonds after January 1, 1996 are required to report certain information about the bond issue through the completion of the *Yearly Fiscal Status Report*. Issuers are required to file a *Yearly Fiscal Status Report* if they have sold bonds **before** June 30 of each year and each year thereafter. Issuers who sell bonds **after** June 30 would file a *Yearly Fiscal Status Report* the following year, and each year thereafter. **All** Marks-Roos Local Bond Pool issuers (both authority and local obligors) are required to report any draw on reserve or default that occurs throughout the entire year, regardless of when the bonds were sold.

For purposes of implementing this law, the following are subject to the reporting requirements:

1. *The Authority*. The Authority is the joint powers agency (JPA) issuing bonds under the Marks-Roos Local Bond Pooling Act of 1985 for the purpose of acquiring local obligations. (Government Code Section 6584, et seq). The JPA is usually identified as a Public Financing Authority (PFA) or Public Facilities Financing Authority (PFFA) and is referred to herein as the *Authority*. An Authority is subject to the *Yearly Fiscal Status* reporting requirements if the proceeds of its bond issue(s) purchase **two or more** local obligations (LOB). An Authority which provides financing for an individual project is **not** subject to the *Yearly Fiscal Status* reporting requirements, but is subject to the draw on reserve or default reporting requirements.

2. *The Local Obligation Issuer*. Local obligation (LOB) issuers are those agencies whose bond issues are purchased with the proceeds of an Authority bond issue. Each LOB which is part of an Authority issuance of **two or more** LOBs or loans is subject to the *Yearly Fiscal Status* reporting requirements of the law. All LOBs are subject to the draw on reserve or default reporting requirements.

State Law

Section 6599.1 was added by Senate Bill 1275 (Chapter 229, Statutes of 1995).

- Section 6599.1 (b) of the Government Code states beginning January 1, 1996, and each year after the sale of any bonds by the authority for the purpose of acquiring local obligations (LOB), the legislative body shall, not later than October 30 of each year until the final maturity of the bonds, supply the following information to the Commission:
 - (1) The principle amount of the bonds outstanding, both authority bonds and LOBs acquired with the proceeds of authority bonds.
 - (2) The balance in the reserve fund.
 - (3) The costs of issuance, including any ongoing fees.
 - (4) The total amount of administrative fees collected.
 - (5) The amount of administrative fees charged to each local obligation.
 - (6) The interest earnings and terms of all guaranteed investment contracts.
 - (7) Commissions and fees paid on guaranteed investment contracts.
 - (8) The delinquency rates on all local obligations.
 - (9) The balance in capitalized interest accounts.

This report is called the *Marks-Roos Yearly Fiscal Status Report*.

- Section 6599.1 (c) of the Government Code requires that all agencies either issuing Marks-Roos bonds or agencies whose issues are purchased with the proceeds of a Marks-Roos bond issue, regardless of when sold, to notify the Commission by mail, postage prepaid, within 10 days if any of the following events occur:
 - (1) The local agency or its trustee fails to pay principal and interest due on any scheduled payment date.
 - (2) Funds are withdrawn from a reserve fund to pay principal and interest on the bonds issued by the authority or on any bonds acquired by the authority.

This report is called the *Marks-Roos Draw on Reserve or Default Report*.

General Guidelines

- Section 6599.1 (d) of the Government Code provides that the legislative body and CDIAC are immune from liability for inadvertent errors in reporting under Section 6599.1.

All issuers (Authority and LOB Issuers) selling bonds after January 1, 1996, must file *Yearly Fiscal Status* reports with the Commission. Only Authority bonds which provide funds for **two or more** projects are subject to this reporting requirement. If the bonds provide funds for loans to redevelopment agencies or other local issuers, a list of the borrowers and the amount loaned is required.

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Date of sale is the date the bond purchase agreement is signed on a negotiated financing or the date the bid was accepted on a competitive bid. For example, if bonds were authorized before January 1, 1996, and a bond purchase contract was signed in February 1996, the reporting must be made. However, if a bond purchase contract was signed in 1995, but the bonds are not closed until 1996, no report is required.

Bonds shall mean any evidence of debt including revenue bonds, limited tax obligation bonds, special assessment bonds, certificates of participation, general obligation bonds and bond anticipation notes.

Each issue in the Marks-Roos Bond Pool (the Authority bond(s) and the Local Obligation bond(s)) is subject to the reporting requirements.

A. Yearly Fiscal Status Reports

Authority Bond Issue

An *Authority* will receive a *Yearly Fiscal Status Report* from the Commission on or about August 1 of each year. This form will be sent to the agency annually and is to be returned to the Commission by October 30 of each year until the reportable bonds are retired. Issuers selling bonds after June 30 of each year will not be required to file a *Yearly Fiscal Status Report* for that year, but will be required to file a *Yearly Fiscal Status Report* the following year and each year thereafter, until the bonds are retired.

An *Authority* selling an issue structured as Senior/Subordinate bonds will be required to file a *Yearly Fiscal Status Report* for each series. Local obligations, providing the repayments for the Authority Senior/Subordinate issue should file only one *Addendum Report*.

The **Authority** shall complete Sections I, II, III and IV of *Marks-Roos Yearly Fiscal Status Report Form*.

General Instructions for Completing the Report:

- Report all fund balances as of June 30 of each year.
- *Reserve Fund:* The minimum balance of the Reserve Fund as required in the bond indenture should be reported. (Section I-E)
- *Total Issuance Costs:* In the initial report, the total cost of issuance for the bond issue (including underwriter's discount, bond counsel and financial advisor fees, printing, insurance and ratings) paid from the bond proceeds. These costs need only be reported on the first filing date, and this item left blank in subsequent reports. (Section I-F)
- The *Principal Amount of the Bonds Outstanding* and the *fund balances* for the Bond Reserve Fund and the Capitalized Interest Fund should be reported as of **June 30**. (Section II-A, B, C)
- *Fees for Professional Services:* Report total yearly fees paid for ongoing professional services in connection with the bond issue. This may include financial advisory fees, consulting fees and administration fees. Investment contract fees are covered in a separate item below. (Section III-A 1 & 2)
- *Local Obligation Borrower:* List each LOB issuer and the type of obligation, i.e., purchase of bonds (BP), or loan of proceeds (L). (Section III-B 1, 2, 3 & 4)
- *Administration Fees:* Report the yearly administration fees charged to each local obligation (LOB) purchased from the bond issue proceeds. Total the amount of administration fees collected. (Section III-B 4)
- *Investment Contracts:* State the terms of any guaranteed investment contract (may include the length of maturity, access to principal, collateralization requirements, downgrade provisions and credit rating); the total commission or fees paid for the contract, and the yearly interest earnings for the contract. (Section III-C 1, 2 & 3)

B. Marks-Roos Yearly Addendum Report

Local Obligation Issue

- Each LOB issuer will receive a *Yearly Addendum Report* from the Commission on or about August 1 of each year. This form will be sent to the agency annually and is to be returned to the Commission by October 30 of each year until the bonds are retired. LOB issuers selling bonds after June 30 of each year will not be required to file a *Yearly Addendum Report* for that year, but will be required to file a *Yearly Addendum Report* thereafter. The LOB *Yearly Addendum Report* may be filed in conjunction with the Authority's *Yearly Fiscal Status Report* or separately. LOBs who receive **loans** from the proceeds of Authority bonds are not required to file the *Yearly Addendum Report* for those loans.

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- Mello-Roos Community Facilities District LOBs which are subject to the **Mello-Roos Fiscal Status** reporting requirement, should check the box at the top of the *Yearly Addendum Report* form indicating that fact. Yearly fiscal status information received from the *Mello-Roos Yearly Fiscal Status Report* will be used to compile the required information for the *Addendum Report*. To ensure that the issue may be tracked, please complete Section I-A, B, C, D, G & H.

General Instructions for Completion of Addendum Report:

- Each **LOB** issuer (except those subject to the *Mello-Roos Fiscal Status* reporting requirements) shall complete Sections I, II, III and IV of the *Marks-Roos Yearly Addendum Report*.
- LOB should report all fund balance as of **June 30** of each year.
- *Reserve Fund*: Report the minimum balance of the Reserve Fund (if any) as required in the bond indenture for this issue. If there is no separate Reserve Fund for the LOB, state the percentage of the Authority's Reserve Fund that is the responsibility of the LOB. (Section I-E)
- *Authority Bond*: Indicate the issuer and sale date of the Authority bond(s) which provides funds for the purchase of the local obligation. A LOB which receives funds from an Authority Senior/Subordinate bond issue should note both issues, but should file only one *Addendum* report. (Section I-F, G)
- *Fund Balances*: The *Principal Amount of the Local Obligation bonds outstanding* and the *fund Balances* for the bond reserve fund (if any) and the *Capitalized Interest* fund should be reported. (Section II-A, B & C)
- *Delinquency Rate*: Indicate the delinquency rate for taxes and assessments supporting the local obligations. This should be reported as the percentage of the applicable tax increment, special tax or benefit assessment installment received. Indicate the tax collection date and note if the district is covered by a county Teeter Plan. (Section III-A, B)

C. Non-Payment of Principal and Interest or Draw on Reserve/Default Report

All Authority and LOB issuers which issue bonds, **regardless of when sold**, must comply with this reporting requirement. The report shall consist of letter sent to the Commission within 10 days of the event.

A Draw on the Reserve Fund is defined as any withdrawal of funds that decreases the Reserve Fund below the *Minimum Reserve Fund Requirement* as described in the official bond documents and/or the bond indenture. Funds withdrawn from the Reserve Fund to make principal and/or interest payments that do not decrease the Fund below the Minimum Reserve Fund Requirement need not be reported.

Any Authority or Local Obligor that draws on the Reserve Fund or fails to pay debt service must report to the Commission each time such an event occurs.

The report shall consist of a letter to the Commission stating:

- The Authority's or the Local Obligation issue name
- The bond issue title and original date of sale
- The type of non-payment (draw on reserve fund or non-payment — default)
- The date the draw on reserve fund or non-payment occurred
- The amount of the draw on reserve fund or non-payment

Issuers may include a statement of explanation containing information pertinent to the default or draw on reserve fund (i.e., how the situation is expected to be addressed or remedied and any foreclosure information).